



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Effective on 12/08/04.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL**For FY 2006** Applicant claims small entity status. See 37 CFR 1.27**TOTAL AMOUNT OF PAYMENT** (\$ **630.00**)

Complete if Known	
Application Number	09/980,880
Filing Date	September 3, 2002
First Named Inventor	Yoshio GODA, et al.
Examiner Name	Robert W. Hodge
Art Unit	1745

Attorney Docket No. **MAT-8189US****METHOD OF PAYMENT** (check all that apply) Check Credit Card Money Order None Other (please identify): _____ Deposit Account Deposit Account Number: **18-0350** Deposit Account Name: **RatnerPrestia**

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

<input type="checkbox"/> Charge fee(s) indicated below	<input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee
<input checked="" type="checkbox"/> Charge any additional fee(s) or underpayment of fee(s) under 37 CFR 1.16 and 1.17	<input checked="" type="checkbox"/> Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

FEE CALCULATION**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

<u>Application Type</u>	<u>FILING FEES</u>		<u>SEARCH FEES</u>		<u>EXAMINATION FEES</u>		<u>Fees Paid (\$)</u>
	<u>Fee (\$)</u>	<u>Fee (\$)</u>	<u>Fee (\$)</u>	<u>Fee (\$)</u>	<u>Fee (\$)</u>	<u>Fee (\$)</u>	
Utility	300	150	500	250	200	100	—
Design	200	100	100	50	130	65	—
Plant	200	100	300	150	160	80	—
Reissue	300	150	500	250	600	300	—
Provisional	200	100	0	0	0	0	—

2. EXCESS CLAIM FEESFee Description

Each claim over 20 (including Reissues)

Small EntityFee (\$) Fee (\$)

50 25

Each independent claim over 3 (including Reissues)

200 100

Multiple dependent claims

360 180

Total Claims Extra Claims Fee (\$) Fee Paid (\$) Multiple Dependent Claims- 20 or HP = _____ x \$50. = _____ Fee (\$) Fee Paid (\$)

HP = highest number of total claims paid for, if greater than 20 \$360. \$0.

Indep. Claims Extra Claims Fee (\$) Fee Paid (\$)

- 3 or HP = _____ x \$200. = _____

HP = highest number of independent claims paid for, if greater than 3

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets Extra Sheets Number of each additional 50 or fraction thereof Fee (\$) Fee Paid (\$)

- 100 = _____ / 50 = _____ (round up to a whole number) x \$250. = _____

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Fees Paid (\$)

Other (e.g., late filing surcharge) Petition, \$130; Appeal Brief, \$500.

\$630.00

SUBMITTED BY

Complete (if applicable)

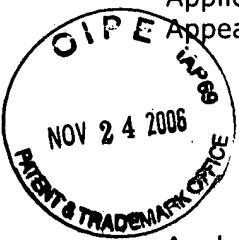
Signature		Registration No. Attorney/Agent)	34,515	Telephone	(610) 407-0700
Name (Print/Type)	Lawrence E. Ashery			Date	November 22, 2006

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments or the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

Application No.: 09/980,880
Appeal Brief Dated: November 22, 2006

MAT-8189US



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appln. No: 09/980,880
Applicants: Yoshio GODA, et al.
Filed: September 3, 2002
Title: TOP SEALING PLATE, BATTERY USING THE TOP SEALING PLATE,
AND METHOD OF MANUFACTURING THE BATTERY (AS AMENDED)
TC/A.U.: 1745
Examiner: Robert W. Hodge
Confirmation No.: 1394
Docket No.: MAT-8189US

APPEAL BRIEF

Mail Stop Petition

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Communications dated March 15, 2006, and September 22, 2006, Appellants are submitting this Appeal Brief for the above-identified application.

I. REAL PARTY IN INTEREST

The Real Party In Interest in this matter is Matsushita Electric Industrial Co., Ltd.

II. RELATED APPEALS AND INTERFERENCES

There are no appeals or interferences known to Appellant, Appellants' legal representative, or Appellants' Assignee that will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

Claims 1-3, 9, 10, and 12-29 are pending in the application. Claims 1-3, 9, 10, and 12-29 stand rejected under 35 USC 103(a) as being unpatentable over Onagawa, Japanese Patent Abstract H08-273,649 ("Onagawa") in view of Nishino, Japanese Patent Abstracts H08-339,785 ("Nishino"). Claim 4 stands rejected being unpatentable over Onagawa in view of Nishino and further in view of Ishizuka, U.S. Patent 6,019,802. An amendment canceling claims 3 and 4 accompanies this Appeal Brief, mooting this rejection.

IV. STATUS OF AMENDMENTS

There is a pending, unentered amendment after a Final Rejection. The Advisory Action dated November 2, 2005 refused to enter the October 20, 2005 amendment. Paragraph 3 of the December 14, 2005 Advisory Action also did not enter the proposed amendments after final rejection because the Examiner concluded that the amendments did not place the application in better form for appeal by materially reducing or simplifying the issues for appeal. Because neither of the proposed after-final amendments were entered, the pending claims are in the form submitted by appellants in the response of June 30, 2005, except that an amendment canceling claims 3 and 4 accompanies this Appeal Brief.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The specification discloses a top sealing plate for a battery, a battery comprising the top sealing plate, and a method for the manufacture for the battery comprising the top sealing plate. Specification, Title, Abstract.

Claims 1, 12, 14, 16, and 23 are independent claims. Claims 1, 12, and 14 are drawn to a top sealing plate used for a battery. Claim 16 is drawn to a battery. Claim 23 is drawn to a method for manufacturing a battery.

Independent claim 1 and dependent claims 2-3, 5, 9, and 10, directly or indirectly dependent thereon, are drawn to a top sealing plate used for a battery. The top sealing plate comprises a filter, a cap, and a valve body. Specification, page 5, lines 7-8. Figure 1(a) and Figure 1(b) show top sealing plate 22, comprising filter 3, cap 11, and valve body 12. *Id.*, page 19, lines 15-17. Filter 3 has an upper opening formed in the top surface thereof, and valve hole 9 formed in the bottom surface thereof. *Id.*, page 19, lines 17-19. Cap 11 comprises convex portion 6 and flange portion 14, disposed around convex portion 6. *Id.*, page 19, lines 22-24. Cap 11 is disposed so as to close the upper opening of filter 3. *Id.*, lines 20-21. Filter 3 has a dish-shape, and in the center of filter 3 is formed valve hole 9. *Id.*, page 19, line 25, page 20, 1. When gas is generated in the battery, it is discharged through valve hole 9 and gas vent hole 10. *Id.*, page 20, lines 1-3. Cap 11 and filter 3 are made of electrically conductive materials, such as metals. *Id.*, lines 3-5.

Caulked portion 13 is formed by the upper opening end of the filter 3 and the outer periphery end of flange portion 14 of the cap 11. *Id.*, page 22, lines 1-3. The upper opening end of the filter 3 includes a bend portion that is inwardly bent, which is caulked while the outer periphery end of the flange portion is positioned in the bend portion. *Id.*, page 22, lines 3-8. Caulked portion 13 is formed by the upper opening end of the filter 3 and the outer periphery end of flange portion 14 of cap 11. *Id.*, page 22, lines 1-3. Valve body 12 is disposed in top sealing plate 22 so as to close valve hole 9. *Id.*, lines 19-20. Flange portion 14 of cap 11 and the filter 3 are in a state of contact

including a strong contact portion and a weak contact portion. *Id.*, page 28, lines 2-4. Outer periphery end of flange portion 14 includes projection 31 formed on the surface or back of the outer periphery end of flange 14. *Id.*, page 20, lines 6-7. First contact portion is formed from the contact of the projection and the bend portion of filter 3. *Id.*, page 28, lines 4-7. Cap 11 and filter 3 are electrically connected to each other by the contact of the outer periphery end of flange 14 and the bend portion at the caulked position. *Id.*, page 7, lines 2-4. Figures 3(a) to 3(d) show cap 11 that includes flange portion 14 formed around convex portion 6. *Id.*, page 21, lines 1-3. Gas vent hole 10 is formed in flange portion 14. *Id.*, page 19, lines 24-25. As recited in claim 5, projection 31 comprises at least one of a plurality of small projections 16, a plurality of bulges 15, and peripheral edge 17 extending from the outer periphery end. *Id.*, lines 7-10. As recited in claim 9, projection 31 is formed on the surface or back of the outer periphery end of flange 14.

Independent claim 12 and dependent claim 13, dependent thereon, are drawn are a top sealing plate used for a battery. The sealing plate of claim 12 is similar to that of claim 1. However in claim 12, the distance from mating face 23 of filter 11 and cap 3 to the peak of projection 31 is greater than the thickness of said flange portion 14, and each of the peaks has a stronger contact pressure against the bend portion of filter 11 as compared with zones other than the peaks. *Id.*, page 16, lines 13-18.

Independent claim 14 and dependent claim 15, dependent thereon, are drawn to a top sealing plate used for a battery. The sealing plate of claim 14 is similar to that of claim 1. However in claim 14, caulked portion 13 includes an integral projection such that outer periphery end and the bend portion are integrally projected; the integral projection is formed by pressing a protuberant tool from above the bend portion, in a

state that said outer periphery end is positioned in said bend portion; and the integral projection has a stronger contact pressure as compared with zones other than the integral projection. *Id.*, page 16, line 19, to page 17, line 1.

Independent claim 16 and dependent claims 17-22, directly or indirectly dependent thereon, are drawn to a battery. Referring to Figure 2(a), the battery comprises battery case 1, a group of electrodes 26, collector plate 27, top sealing plate 22, positive electrode lead plate 8, and gasket 7. *Id.*, page 20, lines 11-14. As shown in Figure 2(b), top sealing plate 11 has a structure shown in Figure 1 and discussed above. *Id.*, page 20, lines 14-15.

Independent claim 23 and dependent claims 24-29, directly or indirectly dependent thereon, are drawn to a method of manufacturing a battery. The method comprises the steps of (a) disposing a positive electrode, a negative electrode, and electrolyte in a battery case; (b) manufacturing a top sealing plate; (c) electrically connecting said filter and said positive electrode; and (d) disposing said top sealing plate at the opening of said battery case via an electrical insulating gasket in order to close the opening. *Id.*, page 13, line 23, to page 14, line 7. The step of manufacturing said top sealing plate comprises the steps of (1) forming a filter having a valve hole and upper opening; (2) bending the opening end of the upper opening of said filter, to form a bend portion; (3) forming a cap having a convex portion and a flange portion disposed around said convex portion; (4) caulking to join the outer periphery end to said bend portion while the surface and back of the outer periphery end of said flange portion of said cap are positioned in said bend portion, to form a caulked portion; and (5) disposing a valve body serving to cover the valve hole in a space formed between said cap and said filter. *Id.*, page 14, lines 10-21.

The step of forming the cap includes forming a projection at the outer periphery end of the flange portion, in which the projection extending from at least one out of the surface and the back thereof. *Id.*, page 25, lines 14-17. The step of forming said caulked portion includes a step of electrically connecting said cap and said filter to each other by contacting the outer periphery end at said caulked portion with said bend portion so that said caulked portion includes a first contact portion and a second contact portion between the surface of the outer periphery end of said flange and said bend portion, a contact pressure of said first contact portion is stronger than a contact pressure of said second contact portion. *Id.*, page 14, line 22, to page 23, line 4. Claim 29 recites forming the an integral portion by pressing a protuberant tool from above the bend portion while the surface and back of the flange portion of the cap are positioned in the bend portion. Figure 5 shows wedge-like portion 21 where the tip of an upper die 20 of a dies press is pressed against caulked portion 13 at the outer periphery of top sealing plate 22 to deform top sealing plate 22. *Id.*, page 25, line 21, to page 26, line 9.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The rejection of claims 1-2, 5, 9, 10, and 12-29 under 35 USC 103(a) as being unpatentable over Onagawa in view of Nishino, is to be reviewed on appeal.

Claims 3 and 4 have been canceled, mooting the rejection of claim 3 under 35 USC 103(a) as being unpatentable over Onagawa in view of Nishino, and the rejection of claim 4 under 35 USC 103(a) as being unpatentable over Onagawa in view of Nishino as applied to claims 1-3, 5, 9, and 12-29 and further in view of Ishizuka.

VII. ARGUMENT

A. LEGAL STANDARD

The rejection is a rejection under 35 USC § 103(a). Obviousness is analyzed using the four step analysis promulgated in *Graham v. John Deere*, 383 U.S. 1, 17-18, 148 USPQ 459, 467 (1966). However, references must be considered as a whole, and it is well established that it is impermissible to pick and choose only so much as will support a given position to the exclusion of other parts necessary to the full appreciation of what such reference fairly teaches or suggests. *Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve*, 230 U.S.P.Q. 416, 419 (Fed. Cir. 1986).

B. THE REJECTION OF CLAIMS 1-29 UNDER 35 U.S.C. § 112, FIRST PARAGRAPH, HAS BEEN WITHDRAWN

The Final Rejection dated September 2, 2005 rejected all the pending claims under 35 U.S.C. § 112, first paragraph, for allegedly failing to comply with the written description requirement. Appellants amended the claims on October 20, 2005 and again on December 2, 2005. The Advisory Action dated November 2, 2005 refused to enter the October 20, 2005 amendment. Paragraph 3 of the December 14, 2005 Advisory Action also did not enter the proposed amendments after final rejection because the Examiner concluded that the amendments did not place the application in better form for appeal by materially reducing or simplifying the issues for appeal. Nevertheless, paragraph 5 of the December 14, 2005 Advisory Action states that appellants' "reply" has overcome the rejection under 35 U.S.C. § 112, first paragraph. Office action of December 14, 2005, page 1, ¶ 5.

Although appellants cannot determine which "reply" is referred to, the rejection under 35 U.S.C. § 112, first paragraph has been withdrawn and is, therefore, not addressed herein. Furthermore, because neither of the proposed after-final amendments were entered, the pending claims, except for the cancellation of claims 3 and 4, are in the form submitted by appellants on June 30, 2005.

C. REJECTION OF CLAIMS 1-3, 5, 9, 10, AND 12-29 UNDER 35 USC 103(a) AS BEING UNPATENTABLE OVER ONAGAWA IN VIEW OF NISHINO

Claims 1-3, 5, 9, 10, and 12-29, all the claims remaining in the application, stand rejected under 35 USC 103(a) as being unpatentable over Onagawa, Japanese Patent Abstract H08-273,649 ("Onagawa"), in view of Nishino, Japanese Patent Abstracts H08-339,785 ("Nishino"). For the following reasons, the rejection should be reversed.

1. The Examiner has Improperly Ignored Claim Limitations

Claims 1-2, 5, 9, and 10

Claim 1 recites, in part, that "said caulked portion includes a first contact portion and a second contact portion between the surface of the outer periphery end of said flange and said bend portion, a contact pressure of said first contact portion is stronger than a contact pressure of said second contact portion." Claim 1 (emphasis added). The Examiner's position is that "said limitation is also given little to no patentable weight because it does not further limit the structure of the apparatus." Office action of September 2, 2005, page 2, last two lines. This is improper.

The Examiner must consider the invention as a whole; limitations can not be ignored. 35 USC 103(a). Further, the Examiner has provided no reason or explanation

to support the assertion that this limitation does not further limit the structure. This is improper. *See, In re Lee*, 61 USPQ 1430, 1432-34 (Fed. Cir. 2002) (agency findings must be supported by the record).

The Examiner has not made the *prima facie* case. The Examiner has improperly ignored a claim limitation. For this reason, the rejection of independent claim 1 and dependent claims 2-3, 5, 9, and 10, dependent thereon, as unpatentable over Onagawa in view of Nishino should be reversed.

Claims 12 and 13

Claim 12 recites, in part, that "each of the peaks has a stronger contact pressure against said bend portion of said filter as compared with zones other than said peaks." This limitation was recited in claim 12 as originally filed. The Examiner has ignored this limitation.

The Examiner has not made the *prima facie* case. The Examiner has improperly ignored a claim limitation. For this reason, the rejection of independent claim 12 and dependent claim 13, dependent thereon, as unpatentable over Onagawa in view of Nishino should be reversed.

Claims 14 and 15

Claim 14 recites, in part, "said integral projection has a stronger contact pressure as compared with zones other than said integral projection." This limitation was recited in claim 14 as originally filed. The Examiner has ignored this limitation.

The Examiner has not made the *prima facie* case. The Examiner has improperly ignored a limitation. For this reason, the rejection of independent claim 14 and

dependent claim 15, dependent thereon, as unpatentable over Onagawa in view of Nishino should be reversed.

Claims 16-22

Claim 16 recites, in part, that "said caulked portion includes a first contact portion and a second contact portion between the surface of the outer periphery end of said flange and said bend portion, a contact pressure of said first contact portion is stronger than a contact pressure of said second contact portion." This limitation is recited in claim 1. The Examiner's position again is that "said limitation is also given little to no patentable weight because it does not further limit the structure of the apparatus." Office action of September 2, 2005, page 2, last two lines.

For the reason discussed above under claim 1, the Examiner has not made the *prima facie* case. The Examiner has improperly ignored a claim limitation. For this reason, the rejection of independent claim 16 and dependent claims 17-22, dependent thereon, as unpatentable over Onagawa in view of Nishino should be reversed.

Claims 23-29

Claim 23 recites, in part, that "said caulked portion includes a first contact portion and a second contact portion between the surface of the outer periphery end of said flange and said bend portion, a contact pressure of said first contact portion is stronger than a contact pressure of said second contact portion." This limitation is recited in claim 1. The Examiner's position again is that "said limitation is also given little to no patentable weight because it does not further limit the structure of the apparatus." Office action of September 2, 2005, page 2, last two lines.

For the reason discussed above under claim 1, the Examiner has not made the *prima facie* case. The Examiner has improperly ignored a limitation. For this reason, the rejection of independent claim 23 and dependent claims 24-29, dependent thereon, as unpatentable over Onagawa in view of Nishino should be reversed.

2. The Examiner Has Improperly Ignored the Relevant Teachings of a Cited Reference

As recited in claim 1, a caulked portion is formed while the outer periphery end of the flange is positioned in the bend portion. The caulked portion includes a first contact portion and a second contact portion between the surface of the outer periphery end and the bend portion. The outer periphery end and bend portion are "jointed to each other." The outer periphery end includes a projection extending from it. A first contact portion is formed from a contact of the projection and the bend portion. The first contact portion has a contact pressure that is stronger than a contact pressure of the second contact portion.

The Examiner admits that Onagawa does not disclose a projection or a plurality of projections that are located on the outer periphery of the flange. Office action of September 2, 2005, page 4, ¶ 10. The Examiner's position is that Nishino would have made it obvious to include a protrusion in the outer periphery of the flange portion of the Onagawa device in order to improve leakage resistance of the Onagawa battery. *Id.*, page 4, ¶ 12. Appellants respectfully disagree.

Onagawa and Nishino have different purposes. The purpose of Onagawa is to provide a battery whose valve actuating pressure can be stably maintained over a long period of time. Onagawa, Abstract. In Onagawa, the sealing plate 2 is metal and it

comes into direct contact with positive electrode terminal 5. *Id.*, ¶ [0006]. A gasket 3 is on the outside of, and partially surrounds, the joined sealing plate 2/electrode terminal 5. *Id.* The purpose of Nishino is to prevent leaking of electrolyte by placing a protrusion 1a on the flange and an improved gasket 3 between the protrusion and the positive electrode case 2. Nishino, Abstract.

Consequently, Nishino requires not only the protrusion, but also the gasket 3. Nishino, Abstract, Purpose. Specifically, the Purpose paragraph states that it operates by "compressing a gasket in a part corresponding to the protrusion by a prescribed compressing rate." Accordingly, in order to obtain improved leakage resistance in the Onagawa device, the Nishino protrusion and the Nishino gasket 3 would have to be incorporated into the Onagawa device. Nishino fails to teach or suggest that improved leakage resistance can be obtained by using only the Nishino protrusion.

If both the Nishino protrusion and the Nishino gasket 3 were incorporated into Onagawa, the newly added gasket would intervene between the newly added protrusion and the bend portion of Onagawa's sealing plate 2. The resulting device would not have a first contact portion "formed from a contact of said projection and said bend portion" because the protrusion would necessarily contact the gasket, not the bend portion. As a further consequence, the first contact portion would not exhibit the requisite first contact pressure because these would not be a first contact portion "formed from a contact of said projection and said bend portion." Moreover, there would not be "a second contact portion between the surface of the outer periphery end of the flange and said bend portion," thereby precluding a contact pressure at the second contact portion.

References must be considered as a whole, and it is well established that it is impermissible to pick and choose only so much as will support a given position to the

exclusion of other parts necessary to the full appreciation of what such reference fairly teaches or suggests. *Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve*, 230 U.S.P.Q. 416, 419 (Fed. Cir. 1986) (*citing In re Wesslau*, 147 U.S.P.Q. 391, 393 (CCPA 1965)). See also, *In re Fritch*, 23 U.S.P.Q.2d 1780, 1783-84 (Fed. Cir. 1992) (One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.); *In re Mercier*, 185 U.S.P.Q. 774, 778 (CCPA 1975)(*all* the relevant teaching of the cited reference must be considered in determining what they fairly teach to one having ordinary skill in the art) (emphasis in original). Therefore, the Examiner has incorrectly concluded that it would have been obvious to include a protrusion, alone, in the outer periphery of the Onagawa flange portion in order to improve leakage resistance.

The Examiner has not made the *prima facie* case. The Examiner has improperly reconstructed the invention by picking and choosing only so much as will support the rejection to the exclusion of other parts necessary to the full appreciation of what Nishino fairly teaches or suggests to one skilled in the art. For this reason the rejection of claims 1-3, 5, 9, 10, and 12-29 as unpatentable over Onagawa in view of Nishino should be reversed.

3. Combination of the References Does in the Manner Indicated Not Produce Appellants' Invention

Even if, for the sake of argument, it would have been obvious to use only the Nishino protrusion in Onagawa (which appellants do not concede), there is no disclosure or suggestion in either reference, or the combination thereof, that the first contact portion ("a contact of said projection and said bend portion") would exhibit a first contact pressure, that a second contact portion would exhibit a second contact pressure, and that

the first contact pressure would be stronger than the second contact pressure. The Examiner's position is that "any sealant has infinite contact portions and because of the chemical nature of all sealants it is inherent that there will be weak and strong contact portions, therefore the prior art still reads on the claims as so recited." Office action of December 14, 2005, page 2, lines 2-4. This statement misinterprets the claims.

Claim 1 recites that the "first contact portion is formed from a contact of said projection and said bend portion" and that the outer periphery end includes the projection. The caulked portion is formed "while said outer periphery end of said flange is positioned in said bend portion." Although the caulked portion includes contact portions, the claim does not recite that the caulk forms the contact portion. Instead, the "first contact portion is formed from a contact of said projection and said bend portion." Any purported contact portions of the caulk are irrelevant to an interpretation of claim 1.

The Examiner has not made the *prima facie* case. Combination of the references in the manner proposed by the Examiner does not produce the invention recited in claim 1. For this reason, the rejection of claim 1, and the claims dependent thereon, as unpatentable over Onagawa in view of Nishino should be reversed.

As discussed above, the other independent claims, independent claims 12, 14, 16, and 23, each recite the same or similar features to that discussed above. Therefore, for this reason, the rejection of claims 12, 14, 16, and 23, and the claims dependent thereon, should be reversed.

D. THE REJECTION OF CLAIM 4 UNDER 35 USC 103(a) AS BEING UNPATENTABLE OVER ONAGAWA IN VIEW OF NISHINO AND FURTHER IN VIEW OF INSHIZUKA IS MOOT

Claim 4 stands rejected being unpatentable over Onagawa in view of Nishino and

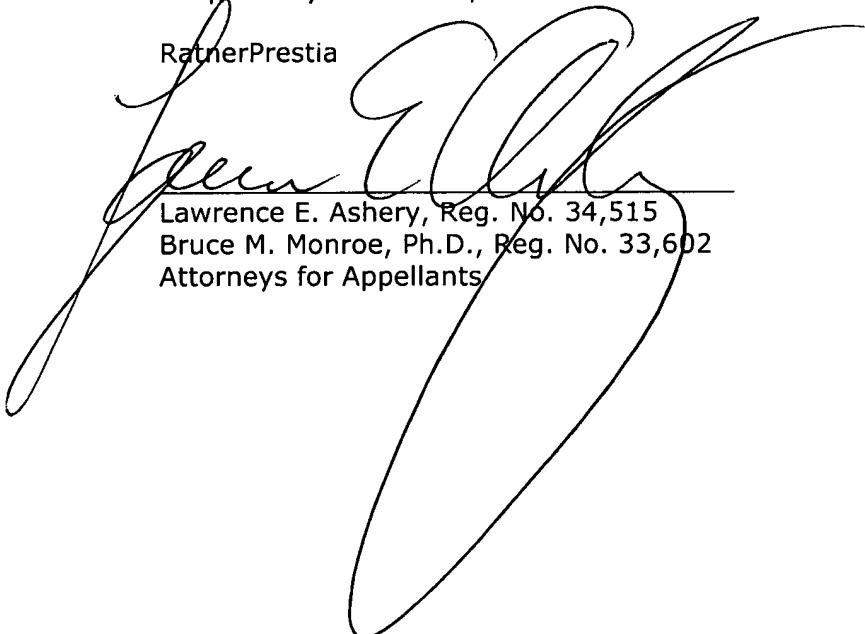
further in view of Ishizuka, U.S. Patent 6,019,802. An amendment canceling claims 3 and 4 accompanies this Appeal Brief, mooting this rejection.

E. CONCLUSION

For the reasons discussed above, the rejection of claims 1-2, 5, 9, 10, and 12-29 under 35 USC 103(a) as being unpatentable over Onagawa in view of Nishino should be reversed, and such action is earnestly solicited.

Respectfully Submitted,

RatherPrestia


Lawrence E. Ashery, Reg. No. 34,515
Bruce M. Monroe, Ph.D., Reg. No. 33,602
Attorneys for Appellants

LEA/BMM/ds/fp

Enclosure: Claims Appendix

Dated: November 22, 2006

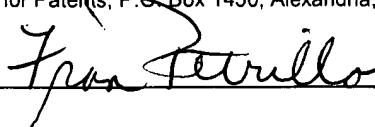
P.O. Box 980
Valley Forge, PA 19482
(610) 407-0700

The Director is hereby authorized to charge or credit Deposit Account No. 18-0350 for any additional fees, or any underpayment or credit for overpayment in connection herewith.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Mail Stop Appeal Brief - Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

November 22, 2006

ds/82507



APPENDIX OF CLAIMS

1. (Previously Presented) A top sealing plate used for a battery, comprising:
 - a filter, a cap, and a valve body,
 - wherein said filter includes a valve hole and upper opening;
 - said cap has a convex portion, and a flange portion disposed around said convex portion;
 - an opening end of said upper opening of said filter has a bend portion;
 - an outer periphery end of said flange portion of said cap and said bend portion include a caulked portion that is caulked and jointed to each other;
 - said caulked portion is formed by caulking while said outer periphery end of said flange is positioned in said bend portion;
 - said valve body is disposed to cover said valve hole, in a space formed between said cap and said filter;
 - said caulked portion includes a strong contact portion and weak contact portion between the surface of the outer periphery end of said flange and said bend portion;
 - said outer periphery end of said flange portion includes a projection extending from at least one out of the surface and the back thereof;
 - said strong-contact portion is formed from a contact of said projection and said bend portion; and
 - said cap and said filter are electrically connected to each other by the contact with said outer periphery end and said bend portion at said caulked portion.
2. (Previously Presented) The top sealing plate of claim 1,

wherein said strong contact portion is one of a plurality of strong contact portions, said weak contact portion is one of a plurality of weak contact portions, and said caulked portion includes said strong contact portions and said weak contact portions; and

said strong contact portions and said weak contact portions are disposed along a circumferential or radial direction of said cap.

3. (Previously Presented) The top sealing plate of claim 1,

wherein said top sealing plate is disposed at an opening of a battery case of said battery so as to close said battery case, in a state of being electrically insulated by a gasket of said battery; and

said filter is electrically connected to a positive electrode of said battery.

4. (Previously Presented) The top sealing plate of claim 3,

wherein said battery is cylindrical in shape;

said battery case has a circular opening;

said top sealing plate is disposed at said opening of said battery case so as to close said battery case;

said cap has a gas vent hole; and

said filter secures said valve body and said cap in predetermined positions.

5. (Previously Presented) The top sealing plate of claim 1,

wherein said projection includes at least one selected from the group consisting of a plurality of small projections, bulges, and peripheral edge projected from the surface of said flange.

6.-8. (Cancelled).

9. (Previously Presented) The top sealing plate of claim 1,

wherein said projection is disposed on a surface of said outer periphery end of said flange positioned at a same side as said convex portion.

10. (Previously Presented) The top sealing plate of claim 1,

wherein said projection has vertical spring against a contact surface between said flange portion and said bend portion.

11. (Cancelled).

12. (Previously Presented) A top sealing plate used for a battery, comprising:

a filter, a cap, and a valve body,

wherein said filter includes a valve hole and upper opening;

said cap has a convex portion, and a flange portion disposed around said convex portion;

an opening end of said upper opening of said filter has a bend portion;

an outer periphery end of said flange portion of said cap and said bend portion include a caulked portion that is caulked and jointed to each other;

said caulked portion is formed by caulking while said outer periphery end is positioned in said bend portion;

said valve body is disposed to cover said valve hole, in a space formed between said cap and said filter;

a surface of said outer periphery end of said flange has a projection;

said outer periphery end including said projection and said bend portion are caulked;

said cap and said filter are electrically connected to each other, by contact between said outer periphery end at said caulked portion and said bend portion;

a distance from a mating face of said filter and cap to a peak of said projection is greater than a thickness of said flange portion;

the peak exhibits a first contact pressure stronger against said bend portion of said filter than a second contact pressure in zones other than said peak.

13. (Original) The top sealing plate of claim 12,

wherein said projection includes at least one selected from the group consisting of a plurality of small productions, bulges, and projected peripheral edge.

14. (Previously Presented) A top sealing plate used for a battery, comprising:

a filter, a cap, and a valve body,

wherein said filter includes a valve hole and upper opening;

said cap has a convex portion, and a flange portion disposed around said convex portion;

an opening end of said upper opening of said filter has a bend portion;

an outer periphery end of said flange portion of said cap and said bend portion include a caulked portion that is caulked and jointed to each other;

said caulked portion is formed by caulking while said outer periphery end is positioned in said bend portion;

said valve body is disposed to cover said valve hole, in a space formed between said cap and said filter;

said cap and said filter are electrically connected to each other, by contact between said outer periphery end at said caulked portion and said bend portion;

said caulked portion includes an integral projection such that said outer periphery end and said bend portion are integrally projected;

said integral projection is formed by pressing a protuberant tool from above the bend portion, in a state that said outer periphery end is positioned in said bend portion; and

said integral projection exhibits a first contact pressure stronger than a second contact pressure in zones other than said integral projection.

15. (Original) The top sealing plate of claim 14,

wherein said battery comprises a battery case, and a positive electrode, negative electrode, electrolyte, gasket and said top sealing plate disposed in said battery case; and

said battery case has a circular opening;

said top sealing plate is disposed at said opening of said battery case, in a state of being electrically insulated by said gasket so as to close said battery case; and

said filter is electrically connected to said positive electrode.

16. (Previously Presented) A battery, comprising:

a battery case, a positive electrode, a negative electrode, electrolyte, a gasket, and a top sealing plate,

wherein said positive electrode, said negative electrode, and said electrolyte are disposed in said battery case;

said battery case has an opening;

said top sealing plate is disposed at the opening of said battery case, in a state of being electrically insulated by said gasket so as to close said battery case;

said filter is electrically connected to said positive electrode;

said top sealing plate comprises a filter, cap, and valve body;

 said filter has a valve hole and upper opening;

 said cap has a convex portion, and a flange portion disposed around said convex portion;

 an opening end of said upper opening of said filter has a bend portion;

 an outer periphery end of said flange portion of said cap and said bend portion include a caulked portion that is caulked and joined to each other;

 said caulked portion is formed by caulking while said outer periphery end is positioned in said bend portion;

 said valve body is disposed to cover said valve hole, in a space formed between said cap and said filter;

 said caulked portion includes a strong contact portion and weak contact portion between the surface of the outer periphery end of said flange and said bend portion;

 said outer periphery end of said flange portion includes a projection extending from at least one out of the surface and the back thereof;

 said strong-contact portion is formed from a contact of said projection and said bend portion; and

 said cap and said filter are electrically connected to each other, due to contact established between said outer periphery end and said bend portion at said caulked portion.

17. (Previously Presented) The battery of claim 16,

 wherein said projection includes at least one selected from the group consisting of a plurality of small projections, bulges, and projected peripheral edge;

 said strong contact portion is formed by said projection and said bend portion contacting with each other; and

said weak contact portion is formed by zones other than said projection and said bend portion contacting with each other.

18. (Previously Presented) The battery of claim 16,

said strong contact portion is one of a plurality of strong contact portions, said weak contact portion is one of a plurality of weak contact portions, and said caulked portion includes said strong contact portions and said weak contact portions; and

said strong contact portions and said weak contact portions are disposed along the circumferential or radial direction of said cap.

19. (Original) The battery of claim 17,

wherein the plurality of projections are disposed on the surface of said outer periphery end of said flange positioned at the same side as said convex portion.

20. (Original) The battery of claim 17,

wherein said projection has vertically sprung against the contact surface between said flange portion and said bend portion.

21. (Previously Presented) The battery of claim 17,

wherein a distance from a mating face of said filter and cap to peaks of said plurality of projections is greater than a thickness of said flange portion; and

each of said peaks has a stronger contact pressure against said bend portion of said filter as compared with zones other than said peaks.

22. (Original) The battery of claim 17,

said caulked portion includes an integral projection such that said outer periphery end and said bend portion are integrally projected;

said integral projection is formed by pressing a protuberant tool from above the bend portion, in a state that said outer periphery end is positioned in said bend portion; and

said integral projection has a stronger contact pressure as compared with zones other than said integral projection.

23. (Previously Presented) A method of manufacturing a battery, comprising the steps of:

(a) disposing a positive electrode, a negative electrode, and electrolyte in a battery case;

(b) manufacturing a top sealing plate;

(c) electrically connecting said filter and said positive electrode; and

(d) disposing said top sealing plate at the opening of said battery case via an electrical insulating gasket in order to close the opening,

wherein the step of manufacturing said top sealing plate comprises the steps of:

(1) forming a filter having a valve hole and upper opening;

(2) bending the opening end of the upper opening of said filter, to form a bend portion;

(3) forming a cap having a convex portion and a flange portion disposed around said convex portion;

(4) caulking to join the outer periphery end to said bend portion while the surface and back of the outer periphery end of said flange portion of said cap are positioned in said bend portion, to form a caulked portion; and

(5) disposing a valve body serving to cover the valve hole in a space formed between said cap and said filter, and

wherein the step of forming said cap includes forming a projection at said outer periphery end of said flange portion, said projection extending from at least one out of the surface and the back thereof; and

the step of forming said caulked portion includes a step of electrically connecting said cap and said filter to each other by contacting the outer periphery end at said caulked portion with said bend portion so that said caulked portion includes a strong contact portion and weak contact portion between the surface of the outer periphery end of said flange and said bend portion.

24. (Previously Presented) The method of manufacturing a battery of claim 23,

wherein said projection includes at least one selected from the group consisting of a plurality of small projections, bulges, and projected peripheral edge;

said strong contact portion is formed by said projection and said bend portion contacting with each other; and

said weak contact portion is formed by zones other than said projection and said bend portion contacting with each other.

25. (Previously Presented) The method of manufacturing a battery of claim 23,

wherein said strong contact portion is one of a plurality of strong contact portions, said weak contact portion is one of a plurality of weak contact portions, and weak caulked portion includes said strong contact portions and said weak contact portions; and

said strong contact portions and said second contact portions are disposed along the circumferential or radial direction of said cap.

26. (Previously Presented) The method of manufacturing a battery of claim 24,

wherein said projections are disposed on a surface of the outer periphery end of said flange positioned at a same side as said convex portion.

27. (Previously Presented) The method of manufacturing a battery of claim 24,

wherein said projection has vertical spring against a contact surface between said flange portion and said bend portion.

28. (Previously Presented) The method of manufacturing a battery of claim 24,

wherein a distance from a mating face of said filter and cap to a peak of said projection is greater than a thickness of said flange portion; and

said peaks has a stronger contact pressure against said bend portion of said filter as compared with zones other than said peaks.

29. (Original) The method of manufacturing a battery of claim 23,

wherein the step of forming said caulked portion includes a step of forming an integral projection at said outer periphery end and said bend portion, by pressing a protuberant tool from above the bend portion while the surface and back of said flange portion of said cap are positioned in said bend portion; and

said integral projection has a stronger contact pressure as compared with zones other than the integral projection.

IX. EVIDENCE APPENDIX

None.

Application No.: 09/980,880
Appeal Brief Dated: November 22, 2006

MAT-8189US

X. RELATED PROCEEDINGS APPENDIX

None